BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

HELEN L. BEEBE Claimant	
VS.) Docket No. 179,702
BOEING MILITARY AIRPLANES Respondent)
AND	
AETNA CASUALTY & SURETY COMPANY	
Insurance Carrier AND	
WORKERS COMPENSATION FUND))

ORDER

Claimant requests review of the Award of Administrative Law Judge John D. Clark entered in this proceeding on June 5, 1995. The Appeals Board heard oral argument in Wichita, Kansas on October 11, 1995.

APPEARANCES

Claimant appeared by her attorney, James B. Zongker of Wichita, Kansas. Respondent and its insurance carrier appeared by their attorney, Frederick L. Haag of Wichita, Kansas. The Workers Compensation Fund appeared by its attorney, Eric R. Yost of Wichita, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award of June 5, 1995.

ISSUES

The Administrative Law Judge denied claimant's request for benefits and found that claimant had failed to prove that she sustained personal injury by accident arising out of and in the course of her employment with the respondent. The claimant requested review of that finding. That is the sole issue now before this Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds as follows:

The Award of the Administrative Law Judge should be affirmed. The Appeals Board finds claimant has failed to prove that she sustained personal injury by accident arising out of and in the course of her employment with the respondent. The Appeals Board bases this conclusion upon the fact that claimant was seeing her personal chiropractor for low back complaints during the month before the alleged accident on June 4, 1993. In

addition, claimant herself did not initially attribute an incident at work to her back complaints but, instead, told her chiropractor on June 7, 1993 that she had experienced increased symptoms in her low back while sitting in front of her computer at home over the weekend. Also, claimant did not report or allege a work-related injury until it was apparent her job was in jeopardy due to her unexcused absences from work. Based upon the entire record, the Appeals Board finds claimant's testimony is not credible.

The Administrative Law Judge properly set forth the pertinent facts pertaining to claimant's alleged accidental injury and the Appeals Board adopts those findings as its own.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge John D. Clark entered in this proceeding on June 5, 1995, should be, and hereby is, affirmed.

II IO OO ONDERED.
Dated this day of October 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: James B. Zongker, Wichita, Kansas Frederick L. Haag, Wichita, Kansas Eric R. Yost, Wichita, Kansas John D. Clark, Administrative Law Judge Philip S. Harness, Director

IT IS SO ORDERED